

Stephen Z. Starr (SS-3765)  
 Vildan E. Starr (VS-1350)  
 STARR & STARR, PLLC  
 260 Madison Ave., 17th Fl.  
 New York, New York 10016  
 tel. (212) 867-8165  
 fax. (212) 867-8139

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

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EL SOL BRANDS, INC. d/b/a R-BEST	:	
TROPICALS; CARAVEO PAPAYAS, INC.,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	
	:	
PRIME PRODUCE GROUP, INC., a New York	:	
corporation; KYUNG HEE AN, an individual;	:	
JETS PRODUCE CORP., a New York	:	
corporation; JAY LEE, an individual; JOUNG	:	
LEE, an individual; M.Y. PRODUCE, INC., a	:	
New York corporation; MYONG KON KIM,	:	
an individual, a/k/a YOUNG KIM; and	:	
SUNG GON KIM, an individual, a/k/a SAM	:	
KIM,	:	
	:	
Defendants.	:	
	:	

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Case No.: 07 CV 11562 (SHS)

[ECF CASE]

**DECLARATION OF STEPHEN  
 Z. STARR IN SUPPORT OF  
 MOTION FOR (1) DEFAULT  
 JUDGMENT, AND (2) AMEND-  
 MENT OF CASE CAPTION**

I, STEPHEN Z. STARR, declare as follows:

1. I am over 18 years of age. My business address is 250 Madison Ave., 17th Floor, New York, New York 10016-2401.
2. I am a member of the Bar of this Court and am a member of Starr & Starr, PLLC, attorneys for EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS and CARAVEO

PAPAYAS, INC., plaintiffs herein and am familiar with the facts and circumstances in this action.

3. This declaration under penalty of perjury is being provided in lieu of an affidavit as permitted by 28 U.S.C. § 1746 and Rule 1.10 of the Local Civil Rules of the Southern District of New York.

4. This declaration is being submitted in support of entry of default judgment pursuant to Civil Rule 55.1 and 55.2(a) against all defendants, and entry of an order amending the case caption to eliminate "JAY LEE" as a separately named defendant and change the designation of defendant "JOUNG LEE" to "JOUNG LEE, an individual, a/k/a JAY LEE".

5. This is an action by plaintiff EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS to recover \$53,363 owed by JETS PRODUCE CORP., M.Y. PRODUCE, INC., JOUNG LEE, an individual, a/k/a JAY LEE, MYONG KON KIM, an individual, a/k/a YOUNG KIM, and SUNG GON KIM, an individual, a/k/a SAM KIM, to plaintiff for unpaid produce pursuant to the Perishable Agricultural Commodities Act of 1930, 7 U.S.C. §§ 499a-499q ("PACA").

6. This is an action by plaintiff CARAVEO PAPAYAS, INC. to recover \$48,519.50 owed by PRIME PRODUCE GROUP, INC., M.Y. PRODUCE, INC., KYUNG HEE AN, an individual, MYONG KON KIM, an individual, a/k/a YOUNG KIM, and SUNG GON KIM, an individual, a/k/a SAM KIM, to plaintiff for unpaid produce pursuant to the PACA.

7. Jurisdiction of the subject matter of the action is based on federal question jurisdiction. The District Court has jurisdiction over the action pursuant to PACA. 7 U.S.C. §499e(c)(5); 28 U.S.C. §1331.

8. This action was commenced on December 26, 2007 by the filing of a complaint. A copy of the summons and complaint was served on all of the defendants (with the exception of named defendant JAY LEE<sup>1</sup>) as follows (i) PRIME PRODUCE GROUP, INC. by personal service on Kyung Hee An, an individual apparently in charge of defendant and believed to be President of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (ii) KYUNG HEE AN, an individual, by personal service upon her at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (iii) JETS PRODUCE CORP. by personal service on Jay Lee, an individual apparently in charge of defendant and believed to be President or Officer of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (iv) JOUNG LEE, an individual, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (v) M.Y. PRODUCE, INC., by personal service on Myong Kon Kim, an individual apparently in charge of defendant and believed to be President of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on

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<sup>1</sup> JAY LEE is an alias of defendant JOUNG LEE. Pursuant to the Motion Plaintiffs seek to amend the case caption to eliminate JAY LEE as a separate defendant and amend the designation of defendant "JOUNG LEE" to "JOUNG LEE, an individual, a/k/a JAY LEE."

December 27, 2007, with proof of service thereof filed on February 5, 2008; (vi) MYONG KON KIM, an individual, a/k/a YOUNG KIM, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; and (vii) SUNG GON KIM, an individual, a/k/a SAM KIM, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008.

9. Defendants have failed to appear, answer, or make any motion with respect to the complaint herein, and Defendants' time to appear, answer or otherwise defend expired on January 16, 2008.

10. Defendants are not infants, incompetent persons, or persons in the military service of the United States.

11. Plaintiff EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS seeks to recover judgment for the liquidated amount of \$53,363, plus interest at 9% from December 26, 2007 (the date of filing this action) to February 8, 2008 amounting to \$567.17, plus costs of \$350, for a total as of February 8, 2008 of \$54,280.17, as shown in the annexed Statement, which is justly due and owing, and no part of which has been paid.

12. Plaintiff CARAVEO PAPAYAS, INC. seeks to recover judgment for the liquidated amount of \$48,519.50, plus interest at 9% from December 26, 2007 (the date of filing this action) to February 8, 2008 amounting to \$515.57, plus costs of \$350, for a total as of February 8, 2008 of \$49,385.07, as shown in the annexed Statement, which is justly due and owing, and no part of which has been paid.

13. The disbursements sought to be taxed have been made in this action.

14. Plaintiffs further seek to amend the case caption to eliminate JAY LEE as a separate defendant and amend the designation of defendant "JOUNG LEE" to "JOUNG LEE, an individual, a/k/a JAY LEE on the grounds that JAY LEE is an alias of JOUNG LEE and there is no separate defendant in this matter named JAY LEE.

WHEREFORE, plaintiffs request (i) the entry of the annexed Default Judgment against Defendants, (ii) entry of order amending the case caption to eliminate defendant JAY LEE as a separately designated defendant and amending the designation of defendant JOUNG LEE to "JOUNG LEE, an individual, a/k/a JAY LEE."

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

Executed on this 9th day of February 2008 at New York, New York.

By:   
Stephen Z. Starr

STARR & STARR, PLLC  
260 Madison Ave., 17th Fl.  
New York, New York 10016  
tel.: (212) 867-8165  
fax.: (212) 867-8139

Attorneys for Plaintiffs, El Sol Brands, Inc.  
d/b/a R-Best Tropicals; Caraveo Papayas, Inc.